

## **TITLE 13, DIVISION 1, CHAPTER 1**

### **Article 3.6. BUSINESS PARTNER AUTOMATION PROGRAM**

Sections 225.18, 225.39, 225.45, 225.54 and 225.63

#### **§225.18. Cause for Refusal to Enter into a Contract and Issue a Permit.**

(a) The failure of an applicant to establish its honesty, integrity, good character and reputation to the satisfaction of the department is good cause for the department to refuse to enter into a BPA contract with such applicant.

(b) The failure of an applicant to establish the honesty, integrity, good character and reputation of any of its owners or employees to the satisfaction of the department is good cause for the department to refuse to enter into a BPA contract with such applicant.

(c) The information provided on a Statement of Personal History form, REG 4019 (Rev. 11/2002), the message(s) from DOJ in response to a fingerprint check and/or other information obtained by the department may be the basis for approval or disapproval of a business partner, business partner owner(s) or employee(s) in meeting the standards stated in Section 1685 (b)(2)(B) of the Vehicle Code to participate in the BPA.

(d) There is good cause for the department to refuse to enter into a BPA contract with a business partner applicant if the applicant, one of its owners or employees:

(1) Has been convicted of a felony or a crime, or committed an act or engaged in conduct involving moral turpitude that is substantially related to the function of a BPA business partner.

(2) Is or has been the holder of an occupational license issued by the department that has been suspended or revoked.

(3) Is or has been a managerial employee of an occupational licensee licensed by the department that has been suspended or revoked.

(4) Is or has been a commercial requestor or one of its owners that has been suspended or revoked.

(5) Has failed to comply with their BPA contract or failed to complete any of the audit requirements of Section 225.63 of these regulations.

(6) Has used a false name, made any false statement, or concealed any material fact in any BPA application or statement of personal history.

(7) Has displayed, caused or permitted a sign, mark or advertisement, or used a "Doing Business As" (DBA) in violation of Section 25 of the Vehicle Code.

(8) Has permitted or engaged in fraudulent practices or acts, with reference to clients, members of the public or the department.

(9) Has committed or was responsible for any other act, occurrence, or event in California or any foreign jurisdiction that provides cause for refusal to issue a permit.

(10) Has failed to comply with Section 1685, of the Vehicle Code; Division 5, (commencing with Section 11100) of the Vehicle Code; has violated Article 3, commencing with Section 1800, Chapter 1, Division 2 of the Vehicle Code or any regulation adopted under these statutes.

(11) Was a departmental employee dismissed by the department for cause related to honesty, integrity, good character and reputation of the person dismissed by the department within the last ten (10) years.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1653 and 1685, Vehicle Code.

#### **§225.39. Business Partner Responsibilities.**

(a) First-line service providers shall be responsible for:

- (1) Providing oversight for their second-line business partners to ensure they are in compliance with the terms and conditions of their BPA contracts.
- (2) Ensuring that their prospective second-line business partners submit all application requirements pursuant to Section 225.03 of these regulations.
- (3) Ordering and distributing inventory for their second-line business partners.
- (4) Establishing an automated inventory tracking and assignment system to track accountable inventory shipped to the first-line service provider or their second-line business partner. The automated inventory tracking and assignment system shall be capable of recording the date received, status, and location of all accountable inventory.
- (5) Tracking and monitoring the issuance of accountable and controlled inventory assigned to their second-line business partners.
- (6) Ensuring that none of their second-line business partners have more than a three (3) month supply of inventory in their possession at any time.
- (7) Submitting comprehensive quarterly physical inventory reports for their second-line business partners on a "Physical Inventory Non-DMV Entities" form, ADM 175A (~~#~~Rev. 2/2000).
- (8) Establishing security awareness and education programs and measures to ensure that all of their second-line business partners are aware of the first-line service provider's procedures for protecting the confidentiality of records.
- (9) Ensuring that all of their second-line business partners have implemented the physical security required in this article and by the BPA contract to prevent and discourage inadvertent or deliberate alteration, disclosure, destruction, loss, misuse, or theft of DMV records, proprietary assets, and accountable and controlled items in their possession.
- (10) Controlling access to the department's vehicle registration and titling and inventory databases by use of an authentication credentialing system that shall identify, authenticate and authorize access for each individual user.
- (11) Providing registration and titling training for their second-line business partners authorized to participate in the BPA program.
- (12) Auditing and reconciling transactions processed by their second-line business partners.
- (13) Submitting all transactions to the department within twenty (20) days of the date the transaction was processed.
- (14) Ensuring that all of their second-line business partners comply with the advertising requirements identified in any agreement with the department.
- (15) Submitting all fees collected for and due to the department.
- (16) Ensuring that their second-line business partners only process the types of vehicle transactions authorized for each second-line business partner.
- (b) Whenever the State examines, audits or investigates any second-line business partner, the second-line business partner shall pay, within thirty (30) days after receipt of a statement from the State, the reasonable costs incurred by the State for the performance of the examination, audit or investigation, including, but not limited to:
  - (1) The reasonable amount of the salary and/or other compensation paid to the persons making the examination, audit or investigation.
  - (2) The reasonable expenses for travel, meals and lodging of the persons making the examination, audit or investigation.
  - (3) The reasonable amount of any other expenses, including overhead.
- (c) When the second-line business partner fails to pay the department for the examination, audit or investigation within the thirty (30) days as required in Section 225.39(b) of these regulations, the first-line ~~business partner~~ service provider that provides the interface access to

the department for the second-line business partner shall be billed by the department and have thirty (30) days from the billing date to pay for the examination, audit or investigation.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1652, 1653, and 1685, Vehicle Code.

#### **§225.45. Customer Fees.**

(a) A business partner shall complete a Business Partner Automation Disclaimer form, REG 4020 (Rev. 1/2004) for each DMV transaction when a customer fee is charged. EXCEPTIONS: (1) A business partner completing a conditional sales contract or lease agreement pursuant to Civil Code section 2982, 2982.5 or 2985.8 may disclose the amount of any optional Business Partnership Automation program fee to process transactions identified in Section 225.45(b)(1) through (3) of these regulations using the sales contract or lease agreement in place of the Business Partner Automation Disclaimer form. (2) A business partner acting as a salvage pool, as specified in Vehicle Code Section 543, shall be exempt from completing the form. (3) A business partner acting as a licensed registration service, as specified in Vehicle Code Section 505.2, may disclose the amount of any optional Business Partnership Automation program fee to process transactions identified in Section 225.45(b)(1) through (3) of these regulations using the methods required under Section 330.30, of Title 13 in the California Code of Regulations in place of the Business Partner Automation Disclaimer form.

(1) The business partner shall obtain the customer's signature on the form after the business partner enters on the form the fee amount that the business partner is charging to process the transaction.

(2) The business partner shall provide the completed original of the Business Partner Automation Disclaimer form to the customer, shall keep a completed copy, and shall send a copy to the department with the transaction documents. Voided copies of the form shall be retained with the completed copies kept by the business partner pursuant to Section 225.60 of these regulations.

(3) The Business Partner Automation Disclaimer form is hereby incorporated by reference.

(b) A customer may be charged the following maximum amounts for each type of transaction processed through to completion by a business partner.

(1) Licensed vehicle dealers and licensed dismantlers may charge up to \$25 for any transaction authorized under the Business Partnership Automation Program, in addition to any other fees authorized by statute.

(2) Licensed registration services may charge up to \$25 for a registration renewal, a substitute vehicle license plate and sticker, a substitute vehicle license plate sticker or new vehicle report of sale transaction, up to \$75 for a junk vehicle transaction, and up to \$75 for any other authorized transaction.

(3) Salvage pools may charge up to \$75 for salvage and non-repairable vehicle certificates.

(c) Business partners are not authorized to charge a fee for Vehicle License Fee refund transactions.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

#### **§§225.54. Transaction Procedures and Inventory Requirements.**

A business partner shall process transactions and control inventory according to the "BPA Transaction Procedures and Inventory Requirements Handbook" (Revised ~~April 13, 2005~~ December 2005), which is hereby incorporated by reference.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

### **§225.63. Audit Requirements.**

(a) A business partner shall hire an independent auditor to perform three (3) compliance audits during the term of the BPA contract. The audits shall be conducted by an independent auditor in accordance with generally accepted government auditing standards and the department's BPA Audit Plan, which consists of the Independent Audit Plan (August 30, 2002) and Independent Audit Program (August 30, 2002). The independent auditor shall keep confidential the department's business practices obtained in the course of an audit.

(1) The department may accept the Business Partner Automation Program Audit Self Certification form, REG. 4016 (NEW 12/2002), which is hereby incorporated by reference, in lieu of a compliance audit from second-line business partners only.

(A) The second-line business partner shall submit a Business Partner Automation Program Audit Self Certification form, REG 4016 (NEW 12/2002) to the BPA Program Administrator. A copy of the form shall be submitted to the first-line service provider and the ~~Electronic Oversight Branch~~ **Audit Office** at the address indicated in Section 225.63(c).

(B) The Business Partner Automation Program Audit Self Certification form shall be submitted when an audit is due as set forth in Section 225.63(a)(2) of these regulations.

(2) An audit is required for each twelve (12) month period of the BPA contract. Each audit shall be completed within ninety (90) days of the end of each twelve (12) month audit period. A copy of the audit report, including any findings and recommendations, shall be submitted to the department within sixty (60) days of completion of each audit.

(3) The independent auditor shall be licensed as a certified public accountant in good standing in the state where the site is located.

(4) The independent auditor shall not be part of the ownership or involved in the operation or overview of any part of the business partner's business(es).

(b) The independent auditor shall sign a Representative Non-Disclosure Statement form, REG 4028 (NEW 3/2002) agreeing to protect as confidential information all department records and information including, but not limited to, residence/ mailing addresses.

(1) The Representative Non-disclosure Statement form shall be kept with the business partner's BPA business records and available for audit.

(2) The Representative Non-Disclosure Statement form is hereby incorporated by reference.

(c) The independent auditor shall provide the business partner audit report, the independent auditor's findings and any suggested corrective action plan or audit response developed by the business partner to the department at the following address: ~~Electronic Oversight Branch, Executive Division~~, Department of Motor Vehicles, **Audit Office**, 2750 24<sup>th</sup> Street **P. O. Box 932328**, MS H121, Sacramento, CA 95818 **94232-3890**.

(1) Audits of second-line business partners shall require that a copy of the audit report, findings and any suggested corrective action plan or audit response be sent to the department and the first-line service provider by the independent auditor. The first-line service provider shall retain and maintain a copy of the audit report and corrective action plan or audit response pursuant to Section 225.63.

(d) A business partner shall inform the BPA Program Administrator when an independent auditor is no longer employed by the business partner to perform an audit. This notice shall be sent within seven (7) days of release of the independent auditor. The signed and written notice on business partner letterhead shall be sent by facsimile, US mail, or private courier when an independent auditor is released from service.

(e) A business partner's principal place of business shall be open during normal business hours for an electronic or manual audit of the records required to be retained immediately upon a request from the State.

(f) The department may conduct a standard random audit to verify compliance without reimbursement from a business partner.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.